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12 UNITED STATES DISTRICT COURT
13 SOUTHERN DISTRICT OF CALIFORNIA

15 JASON DAVID BODIE,
16 individually and on behalf of all
17 others similarly situated,

18 Plaintiff,

19 vs.

20 LYFT, INC.,

21 Defendant.

22 Case No. 3:16-CV-2558-L-NLS

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**DEFENDANT LYFT, INC.'S NOTICE
OF MOTION AND MOTION TO
DISMISS OR, IN THE
ALTERNATIVE, TO STAY
COMPLAINT**

[Filed concurrently with Memorandum of
Points and Authorities]

Judge: Hon. M. James Lorenz
Date: February 6, 2017
Time: [No oral argument pursuant to
Local Rule]
Ctrm.: 5B

1 TO PLAINTIFF AND HIS COUNSEL OF RECORD:

2 PLEASE TAKE NOTICE THAT on February 6, 2017, before the Honorable
3 M. James Lorenz, in Courtroom 5B at 221 West Broadway, San Diego, California,
4 92101, Defendant Lyft, Inc. (“Lyft”) will and hereby does move the Court for an
5 order dismissing Plaintiff’s complaint, or in the alternative, staying this action
6 pending the D.C. Circuit’s decision in *ACA International v. FCC*, No. 15-1211.
7 This motion is brought pursuant to Federal Rules of Civil Procedure 12(b)(1) and
8 12(b)(6) on the grounds that (1) Plaintiff lacks standing because he has failed to
9 allege the concrete injury-in-fact required by Article III, and (2) the Complaint’s
10 conclusory allegation that Lyft used an automatic telephone dialing system (ATDS)
11 is insufficient to state a colorable claim for relief. In the alternative, this action
12 should be stayed in light of the D.C. Circuit’s potentially outcome-determinative
13 decision in *ACA International* that will, at the very least, clarify a threshold issue in
14 this case. A stay would promote judicial economy and conserve both parties’
15 resources without any significant prejudice to either party.

16 This motion is based on this Notice of Motion and Motion, the Memorandum
17 of Points and Authorities attached hereto, any hearing on this motion, the complete
18 files and records in this action, and such additional matters as the Court may
19 consider.

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21 DATED: December 15, 2016 MUNGER, TOLLES & OLSON LLP

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23 By: /s/ Jonathan H. Blavin
24 JONATHAN H. BLAVIN
25 Attorneys for Defendant Lyft, Inc.
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